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EXAMINER

DUONG, THANH P

ART UNIT PAPER NUMBER

3711

DATE MAILED: 10/30/2003

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Paper No. 8

Application Number: 09/844,989  
Filing Date: April 30, 2001  
Appellant(s): GIRALDI, GERALD G.

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Gerald G. Giraldi  
For Appellant

### **EXAMINER'S ANSWER**

This is in response to the appeal brief filed August 08, 2003.

**(1) *Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

**(2) *Related Appeals and Interferences***

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3) *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

**(4) *Status of Amendments After Final***

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) *Summary of Invention***

The summary of invention contained in the brief is correct.

**(6) *Issues***

The appellant's statement of the issues in the brief is correct.

**(7) *Grouping of Claims***

Appellant's brief includes a statement that claims 1-22 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

**(8) Claims Appealed**

A substantially correct copy of appealed claims 1-22 appears on pages 12-14 of the Appendix to the appellant's brief. The minor errors are as follows: Applicant acknowledged in the Appeal Brief of Appellant that claims 3, 6, 9, 14 and 19 in the original application are inadvertently omitted on subsequent amendment. The omission of claims 3, 6, 9, 14, and 19 are still pending.

**(9) Prior Art of Record**

5,505,450	Stuff	04-1996
5,322,285	Turner	06-1994
5,098,103	MacKeil	03-1992
5,310,185	Viollaz et al.	05-1994
6,319,150	Werner et al.	11-2001

**(10) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-22 are rejected under 35 U.S.C. 103(a). This rejection is set forth in prior Office Action, Paper No. 5.

***Claim Rejections - 35 USC § 103***

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-9 and 10-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stuff (5,505,450) in view of Turner (5,322,285) and MacKeil (5,098,103).

Regarding claims 1-3, and 6, Stuff discloses a putter head comprising: a putter body (70) having a toe end, a heel end, and a face surface (72), and a non-metallic insert on the striking face (73). Stuff does not disclose a putter body with a face surface having a loft angle varied from the heel end to the toe end. Turner shows a putter head having a face surface that has loft angles (1.25°, 2.75°, 4.25°) configuration that varies from the heel toward toe end (Fig. 7). Turner teaches a changing or varying loft angle from toe toward heel end of the striking face area (Figure 7) to ensure the ball will not slice to left or right upon ball impact if the ball is either hit at the center, toe, or heel end portion of the putter face. MacKeil teaches a golf club having continuously varying loft angle from a positive loft angle to negative loft angle from the toe end to heel end of the bulge (Col. 2, lines 24-30) striking surface (Figure 1) and also makes it clear that the varying loft angles allows the ball to maintain its trajectory and desired spin whether the ball is hit at the toe or heel end of the striking face. Essentially, both Turner and MacKeil teach that a varying loft angle of the striking face allows a golf ball to be hit straighter even though a golfer does not strike the golf ball against the sweet spot of the club head. Thus, it would have been obvious in view of Turner and MacKeil to one having ordinary skill in the art to modify the main body of Stuff to include a varying loft angle of the striking surface of Turner and/or MacKeil in order to compensate the

trajectory and spin of the ball if a golfer hit at the toe or heel end which may result in an undesirable trajectory and spin. Regarding claim 2, the putter of Stuff and prior art inherently have an imaginary mid-line which extends along the center of the face from the heel to toe end. Regarding claim 4, it is inherent that the Figure 16 putter of Stuff has a radius of curvature and the selection of an optimum range of curvature such as 54-90 inches would have been obvious matter of optimization. MacKeil shows a striking face with varying radius of curvature as a result from its varying loft face angle configuration. Regarding claim 5, Stuff shows on Figures 14-16 that the insert has varying thickness along the mid-line. With respect to claim 7, Stuff shows both negative and positive loft angles on Figures 14 and 15. Note, USGA requirement has no restriction on the degree of loft angle. Regarding claim 8, Stuff shows on Figures 14-16 that the insert or 110, 220, and 130 have several contoured striking faces, which conform to the loft angle. Regarding claims 9, 10, 15, and 10-21, it is clear that the putter of Stuff in view of Turner and/or MacKeil has a rear surface, which is twisted in along a path dissimilar from the front surface, and a plurality of sections having its own radius of curvature. Regarding claim 11, Turner shows on Figure 5 a putter having a shaft (2) and a handle grip (1) and the rest of the limitations are described in claims 1-9 above, and are rejected for the same reasons as applied above. Claims 12, 13, 14, 16, 17, 18, and 19 disclose limitations similar to claims 4, 8, 9, 5, 1-3, 8, and 9, respectively. Thus, claims 12, 13, 14, 16, 17, 18, and 19 are rejected for the same reasons as applied in claims 4, 8, 9, 5, 1-3, 8, and 9, above. With respect to claims 22, USGA requires the striking surface insert having a minimum value of 90 Shore A

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hardness; thus, it is inherent that the golf putter of Turner and Stuff must have a surface hardness value at least 90 Shore A.

2. Claims 10, 15, and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior arts as applied in claims 1-9, 11-14, 16-19 and 22, and further in view of Viollaz et al. (5,310,185) and Werner et al. (6,319,150). With respect to claims 10, 15, 20, and 21, the prior art does not disclose the rear surface of the insert having a plurality of sections and each section has its own radius of curvature. However, Viollaz et al. shows a convex insert 18, which has a rear surface with different radius of curvature to allow proper fit onto the support face of the club head (See Abstract). Werner et al. shows on Figure 9 the honeycomb structure face, which has a curved front 87 and rear skin 88. The rear section has a plurality of sections with different radius of curvature to improve shear strength along the face wall area (Col. 3, lines 10-26). Thus, it would have been obvious in view Viollaz and/or Werner of one having ordinary skill in the art to modify the putter the prior art having an insert of Viollaz and plurality of sections of Werner to provide a proper fit of the insert to the club head and to improve shear strength.

### ***Response to Arguments***

Applicant's arguments filed 12/23/02 have been fully considered but they are not persuasive. Applicant argued that there is no proper motivation for the combination of the references. Applicant may argues that the examiner's conclusion of obviousness is based on improper hindsight reasoning. However, "[a]ny judgement on obviousness is in a sense necessarily a reconstruction based on hindsight reasoning, but so long as it

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takes into account only knowledge which was within the level of ordinary skill in the art at the time the claimed invention was made and does not include knowledge gleaned only from applicant's disclosure, such a reconstruction is proper." *In re McLaughlin* 443 F.2d1392, 1395, 170 USPQ 209, 212 (CCPA 1971). Applicant argued that neither Stuff or Turner disclose a golf club where the loft angle consistently changes along the striking face from the heel of the striking face to the toe of the striking face. Note, having different loft angle for a given striking face of a club head is well known in the art. The loft angle controls flight distance, spin, and trajectory of the ball upon impact. There is nothing unobvious about incorporating the teaching of varying loft angle of Turner and/or continuously varying positive loft angle to negative loft angle from toe toward heel end of the striking face of MacKeil in Stuff's patent. Both Turner and MacKeil clearly teach the benefits and/or advantages of having such varying loft angle feature to compensate or correct the trajectory, spin, and flight distance if a golfer strikes the ball at the toe or heel end portion of the striking face. Note, the strongest rationale for combining references is a recognition, expressly or impliedly in the prior art or drawn from a convincing line of reasoning based on established scientific principles or legal precedent, that some advantage or expected beneficial result would have been produced by their combination. *In re Sernaker*, 702 F.2d 989, 994-95, 217 USPQ 1, 5-6 (Fed. Cir. 1983). By incorporating the teachings of Turner and/or MacKeil in Stuff's invention, the claimed invention is obvious over the prior art as presented in the above rejection.

For the above reasons, it is believed that the rejections should be sustained.



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Respectfully submitted,


Tom Duong

Patent Examiner

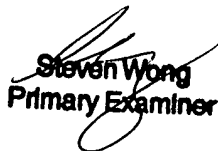
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October 24, 2003

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